

**PUBLIC HEARING
BOARD OF HOUSING QUALITY APPEALS
CITY HALL McCLOSKEY CONFERENCE ROOM
September 8, 2010
4:00 P.M.**

I. **ROLL CALL**

II. **REVIEW OF SUMMARY** – May 12, 2010, July 14, 2010

III. **NEW BUSINESS**

161-167 E. Kennedy Court, L&M Rentals, 10-TV-73. Request an extension of time to complete repairs.

[WITHDRAWN] **412 W. 13th Street, Apt. W**, Ronald B. Clapp, 10-TV-74. Request an extension of time to complete repairs.

219 E. 8th Street, Lucy Khairy, 10-V-75. Request a modification or exception to the Housing Property Maintenance Code for a fuel fired furnace in a sleeping room.

390 W. Jed Street, James & Zella Davis, 10-AA-76. Request for relief from administrative decision concerning designation as rental property.

1003 S. Washington Street, Judith Sylvester, 10-TV-77. Request an extension of time to complete repairs.

203 E. Vermilya Avenue, Donald Chitwood, 10-AA-78. Request for relief from administrative decision concerning designation as rental property.

930 S. Manor Road, Daniel Roussos/Spiti, LLC, 10-AA-79. Request for relief from administrative decision concerning designation as rental property.

1731 N. Lincoln Street, Olympus Properties, 10-AA-80. Request for relief from administrative decision concerning egress.

IV. **GENERAL DISCUSSION**

V. **PUBLIC COMMENT**

VI. **ADJOURNMENT**

SUMMARY

B.H.Q.A. MEETING OF MAY 12, 2010

MEMBERS PRESENT: Kris Floyd, Elizabeth Gallman, Susie Hamilton, Nikki Johnson

STAFF PRESENT: Michael Arnold, Daniel Bixler, John Hewett, Robert Hoole, Bruce Jennings, Maria McCormick, Norman Mosier, Jo Stong (HAND), Inge Van der Cruysse (Legal)

OTHERS PRESENT: Doug Horn (Stasny & Horn), Mark Schultz (Owens Investments, LLC)

II. REVIEW OF MINUTES

No minutes were presented.

III. PETITIONS

421 E. Cottage Grove Avenue, Stasny & Horn, IGP, 10-TV-29. The petitioner, Doug Horn, was present to request an extension of time to complete repairs. The petition was scheduled for the March 2010 meeting, but was pulled prior to the hearing per staff. This resulted in the loss of a five year permit. Staff recommendation was to grant the request for an extension of time with a May 12, 2010 deadline. Gallman made a motion to grant the request per staff recommendation and to reinstate a five year permit for the property. Floyd seconded. Motion passed, 4-0. Request granted.

2315 S. Rockport Road, Spring Lake Development, Inc., 09-TV-78. The petitioner was not present to request an extension of time to complete repairs. This was previously heard November 18, 2009. Staff recommendation was to grant the request with a June 12, 2010 deadline. Floyd made a motion to grant the request per staff recommendation. Hamilton seconded. Motion passed, 4-0. Request granted.

2387 E. Winding Brook Circle, James T. Stegall, 10-TV-41. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a June 12, 2010 deadline. Hamilton made a motion to grant the request per staff recommendation. Floyd seconded. Motion passed, 4-0. Request granted.

1000 E. 2nd Street, Ellen Bennett, 10-TV-44. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with an August 1, 2010 deadline. Floyd made a motion to grant the request per staff recommendation. Gallman seconded. Motion passed, 4-0. Request granted.

921 W. Howe Street, Sandra Fowler & Alexander Scott, 10-TV-45. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a June 15, 2010 deadline. Floyd made a motion to grant the request per staff recommendation. Gallman seconded. Motion passed, 4-0. Request granted.

2374 S. Henderson Street, Muhammad Rana, 10-TV-46. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a June 14, 2010 deadline. Gallman made a motion to grant the request with an August 1, 2010 deadline. Floyd seconded. Motion passed, 4-0. Request granted.

525 N. Fess Avenue, B.B.B. Enterprises, 10-TV-48. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a June 30, 2010 deadline. Floyd made a motion to grant the request per staff recommendation. Hamilton seconded. Motion passed, 4-0. Request granted.

1610 S. Dorchester Drive, Regency Consolidated Management, L.P., 10-TV-51. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a June 14, 2010 deadline. Gallman made a motion to grant the request per staff recommendation. Floyd seconded. Motion passed, 4-0. Request granted.

3200 E. John Hinkle Place Unit G, Greg Purvis, 10-TV-52. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a June 14, 2010 deadline. Floyd made a motion to grant the request per staff recommendation. Gallman seconded. Motion passed, 4-0. Request granted.

1111-1113 S. Rogers Street, Carl D. Wooton, 10-TV-54. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a November 12, 2010 deadline. Floyd made a motion to grant the request per staff recommendation. Gallman seconded. Motion passed, 4-0. Request granted.

2731 N. Kinser Pike, Suzanne Schwartz, 10-TV-55. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a May 25, 2010 deadline for health/safety issues and a June 1, 2010 deadline for all other violations. Floyd made a motion to grant the request per staff recommendation. Gallman seconded. Motion passed, 4-0. Request granted.

1113 S. High Street, Chris & Katelyn Rodgers, 10-TV-56. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a June 12, 2010 deadline. Gallman made a motion to grant the request per staff recommendation. Floyd seconded. Motion passed, 4-0. Request granted.

V. GENERAL DISCUSSION

None.

VI. PUBLIC COMMENT

None.

VII. ADJOURNMENT

Floyd made a motion to adjourn. Hamilton seconded. Motion passed, 4-0. Meeting adjourned at 5:10 PM.

SUMMARY

B.H.Q.A. MEETING OF JULY 14, 2010

MEMBERS PRESENT: Sandi Cole, Kris Floyd, Susie Hamilton, Nikki Johnson, Ryan Strauser

STAFF PRESENT: Lisa Abbott, Michael Arnold, Daniel Bixler, John Hewett, Robert Hoole, Bruce Jennings, Maria McCormick, Norman Mosier, Sean Person, Jo Stong (HAND)

OTHERS PRESENT: Kelli Kern (Buckingham Companies), Dan New (Colonial Crest Apts.), Gale Ray (Colonial Crest Apts.)

II. REVIEW OF MINUTES

Cole made a motion to accept the March 10, 2010 minutes as recorded. Floyd seconded. Motion passed, 4-0-1 (Strauser abstained).

Hamilton made a motion to accept the May 12, 2010 minutes as recorded. Floyd seconded. Motion failed, 3-0-2 (Cole, Strauser abstained).

III. PETITIONS

703 W. Gourley Pike, Gale Ray, 10-TV-68. The petitioners, Gale Ray and Dan New, were present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a July 31, 2010 deadline for (1) all smoke detector and fire extinguisher repair/replacement, and (2) repair of the broken window in Apartment 42, and an October 14, 2010 deadline for all other violations. Floyd made a motion to grant the request per staff recommendation. Cole seconded. Motion passed, 5-0. Request granted.

1704, 1706, 1707, 1708, 1709, 1713, 1714 and 1724 N. Lincoln Street, Buckingham Companies, LLC, 10-TV-70. The petitioner, Kelli Kern, was present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a September 14, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Johnson seconded. Motion passed, 5-0. Request granted.

809 S. Whitley Drive, Christie Vansteenwyk, 09-TV-80. Request an extension of time to complete repairs. Previously heard November 18, 2009 and March 10, 2010. This petition has been withdrawn.

420 N. Washington Street, Michael Mazor, 10-TV-08. The petitioner was not present to request an extension of time to complete repairs. This was previously heard March 10, 2010. Staff recommendation was to grant the request with an August 15, 2010 deadline. Hamilton made a motion to grant the request per staff recommendation. Cole seconded. Motion passed, 5-0. Request granted.

924 S. Dunn Street, TJR Group, LLC, 10-TV-58. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a September 9, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Floyd seconded. Motion passed, 5-0. Request granted.

529 E. Graham Place, Parker Real Estate Management, 10-TV-59. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a September 9, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Hamilton seconded. Motion passed, 5-0. Request granted.

584 E. Graham Place, Parker Real Estate Management, 10-TV-60. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a September 9, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Johnson seconded. Motion passed, 5-0. Request granted.

119 N. Jefferson Street, Douglas D. Dixon, 10-V-61. The petitioner was not present to request an exception to the Property Maintenance Code requiring an exhaust fan in the bathroom. Staff recommendation was to deny the request. Cole made a motion to deny the request per staff recommendation. Floyd seconded. Motion passed, 4-1 (Johnson voted nay). Request denied.

1716 N. Lincoln Street, Jeff Olson, 10-TV-62. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a July 31, 2010 deadline. Floyd made a motion to grant the request with a September 9, 2010 deadline. Cole seconded. Motion passed, 5-0. Request granted.

222 S. Maple Street, Norman Ladd, 10-TV-63. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with an August 1, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Floyd seconded. Motion passed, 5-0. Request granted.

106-108, 110-112, 113-115, 114-116 W. Pinewood Drive, Ashael Summitt, 10-TV-64. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a September 14, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Hamilton seconded. Motion passed, 5-0. Request granted.

1728 N. Lincoln Street, Achamma Varghese, 10-TV-65. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a July 31, 2010 deadline. Floyd made a motion to grant the request with the conditions outlined in the report and with a September 9, 2010 deadline. Strauser seconded. Motion passed, 5-0. Request granted.

514 S. Lincoln Street, Hallmark Rentals & Management, Inc., 10-TV-66. Request an extension of time to complete repairs. This petition has been withdrawn.

3200 E. Longview Avenue, Kingston Manor Apartments, 10-TV-67. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a September 13, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Hamilton seconded. Motion passed, 5-0. Request granted.

719-721 W. 15th Street, Robin Kirby, 10-TV-69. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a September 14, 2010 deadline. Floyd made a motion to grant the request per staff recommendation. Cole seconded. Motion passed, 5-0. Request granted.

1220 E. Hunter Avenue, Hallmark Rentals & Management, 10-TV-71. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with an August 10, 2010 deadline. Cole made a motion to grant the request per staff recommendation. Floyd seconded. Motion passed, 5-0. Request granted.

2619 E. 5th Street, James Foster, 10-TV-72. The petitioner was not present to request an extension of time to complete repairs. Staff recommendation was to grant the request with a July 28, 2010 deadline for all violations other than egress window, and a November 3, 2010 deadline for securing a variance from the state. Cole made a motion to grant the request per staff recommendation. Hamilton seconded. Motion passed, 5-0. Request granted.

V. GENERAL DISCUSSION

None.

VI. PUBLIC COMMENT

None.

VII. ADJOURNMENT

Cole made a motion to adjourn. Floyd seconded. Motion passed, 5-0. Meeting adjourned at 4:47 PM.



City of Bloomington
H.A.N.D.

**Board of Housing Quality Appeals
Staff Report: Petition for Extension of Time**

Meeting Date: 08 September 2010

Petition Type: An extension of time to complete repairs

Petition Number: 10-TV- 073

Address: 161-167 E. Kennedy Ct.

Petitioner: L & M Rentals

Inspector: Michael Arnold

Staff Report:	10 June 2009	Cycle Inspection Schedule – No show by Mgmt
	10 June 2009	Rescheduled Cycle Inspection
	01 July 2009	Cycle Inspection Complete with maintenance
	13 July 2009	Cycle Inspection Report mailed
	16 September 2009	Sent Remaining Violations Report
	01 October 2009	Complaint Filed by tenant #163
	20 October 2009	Sent Complaint Report
	06 November 2009	Start Legal
	19 January 2010	Complaint Reinspection – No show by Mgmt
	09 February 2010	Cycle and Complaint Reinspection – No show by Mgmt
	26 February 2010	Cycle and Complaint Reinspection complete
	03 March 2010	Sent Cycle Remaining Violations Report
	07 April 2010	Cycle Reinspection Complete
	12 April 2010	Sent Cycle Remaining Violations Report
	16 April 2010	Scheduled reinspection for 17 June 2010
	17 June 2010	Mgmt rescheduled Remaining violations inspection
	21 June 2010	Scheduled Remaining violations inspection
	21 June 2010	Filed for extension time for variance from Homeland Security

28

During the cycle inspection it was noted that the bedroom windows did not meet the minimum egress requirements for this structure at the time of construction. The petitioner has applied for a variance with the Department of Homeland Security. There are two outstanding violations for this property. Window requirements are as follows:

Required:

Height: 24 inches
 Width: 20 inches
 Sill Height: 44 inches above finished floor Sill
Openable Area: 5.70 sq. ft. for upper level

Existing:

Height: 24 inches
 Width: 33 inches
 Height: 26 inches
Openable Area: 5.5 Sq. ft. for upper level

Staff recommendation: Grant the Variance

Conditions: All repairs must be completed and re-inspected no later than the deadline stated below, or this case will be turned over to the City of Bloomington Legal Department for further action including the possibility of fines.

Compliance Deadline: 08 October 2010

Attachments: Application, Remaining Violations Report

Remaining Violations Report
Amended 23 August 2010

5648

OWNERS

=====

L&M RENTALS
2201 S. OAKDALE DRIVE
BLOOMINGTON, IN 47403

AGENT

=====

MCBRIDE, MELISSA
2201 S. OAKDALE DRIVE
BLOOMINGTON IN 47403

Prop. Location: 161-167 E KENNEDY CT	Number of Units/Structures: 4 / 1
Date Inspected: 07/01/2009	Number of Bedrooms: 3
Inspectors: Mike Arnold	Max # of Occupants: 4
Primary Heat Source: Gas	Foundation Type: Crawl Space
Property Zoning: RM	Attic Access: Yes
Number of Stories: 2	Accessory Structure: none

REINSPECTION REQUIRED

This report is your final notice from the Housing and Neighborhood Development Office that this rental property continues to be in violation of the Housing-Property Maintenance Code of Bloomington.

If you have made all of the repairs on this report, contact our office immediately to schedule the required re-inspection.

Failure to make repairs or to schedule the required re-inspection will result in this matter being referred to the City Legal Department. Legal action may be initiated against you under Section 16.12.100 of the Bloomington Municipal Code.

It is your responsibility to contact the Housing and Neighborhood Development Office to schedule the required re-inspection. Our mailing address and telephone number are listed below.

The **emergency egress** window does not meet the minimum requirements for a **one and two family dwelling/multi-unit structure** built in 1997:

Typical Egress Window (Applies for all sleeping rooms)

Openable area required:	5.70 sq. ft.	Existing area:	5.50 sq. ft.
Clear width required:	20"	Existing width:	33"
Clear height required:	24"	Existing height:	24"
Maximum sill height:	44" above finished floor	Existing sill:	26"

The emergency egress window does not meet the minimum code requirements for the time the structure was built. For that reason, the City will not issue a rental permit until either the **window is altered or replaced to meet the code requirement at the time of construction, or you apply for an egress variance** with the Indiana Fire and Building Safety Commission. **BMC-16.02.040 (b).**

The State variance application forms are available at the *Department of Homeland Security* on the *Fire Prevention and Building Safety Commission's* web site at www.in.gov/dhs/2375.htm. Scroll down to *Downloadable Forms and Documents* and click on *Variance Application and Instructions*. If you need any further clarification, the Commission can be reached at 317.233.5341.

Interior:

Unit 161:

Upper Level:

Bedroom 2:

Replace the broken/missing outlet cover plate. PM-605.1 (East Wall).

Required Documentation:

A completed copy of the Tenants & Owners Rights and Responsibilities Summary must be provided to the office or reviewed with the inspector within 60 days of the date of the inspection or a \$25.00 fine will be levied. BMC16.12.050 (d). Note: Not received within 60 days therefore the fine will be levied

A completed copy of the Inventory & Damage List must be provided to the office or reviewed with the inspector within 60 days of the date of the inspection or a \$25.00 fine will be levied. BMC16.12.040. Note: Not received within 60 days therefore the fine will be levied

Thoroughly clean and service the furnace, inspect and test shut off valves for proper operation. Documentation from a professional HVAC contractor for this service is acceptable and encouraged. Servicing shall include a test for carbon monoxide. Acceptable levels of carbon monoxide are as follows:

Desired level:	0 parts per million (ppm)
Acceptable level in a living space:	9 ppm
Maximum concentration for flue products:	50 ppm

PM-603.1

When issued, a copy of the new Rental Occupancy Permit shall be posted as required by BMC 16.12.080 (b): All rental units shall be required to have a current occupancy permit displayed in an accessible location inside the unit. The permit shall contain the name of the owner or his agent and the expiration date of the permit. BMC 16.12.080 (b)



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Petitioner's Name:

L+M Rentals Matt Casco

Petitioner's Address & Phone Number:

8313 Ashby Ave Bloom 47401

Owner's Name:

Matt Casco

322-8233

Owner's Address & Phone Number:

SAME

Address of Property:

161-167 Kennedy Ct

Occupant(s) Name(s):

Adison, Clark, Ellis, Wrightman

The following conditions must be found in each case in order for the Board to consider the request:

1. That the value of the area about the property to which the exception is to apply will not be adversely affected.
2. That the exception is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.

Identify the variance type that you are requesting from the following list and attach the required information.



A. An extension of time to complete repairs. (Petition type: TV)

- Specify the items that need the extension of time to complete
- Explain why the extension is needed
- Specify the time requested



B. A modification or exception to the Housing Property Maintenance Code. (Petition type: V)

- Specify the code reference number you are appealing
- Detail why you are requesting the variance
- Specify the modifications and or alterations you are suggesting



C. Relief from an administration decision. (Petition type: AA)

- Specify the decision being appealed and the relief you are seeking



D. Rescind a variance. (Petition type: RV)

- Detail the existing variance
- Specify the reason the variance is no longer needed

I certify that all information submitted with this request is correct and I have enclosed the \$20.00 filing fee.

Signature:

Matt Casco

Name (print):

Matt Casco

Petition Number:

10-TV-73

(Please use the reverse side for further explanation and/or request)



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Please write a brief narrative in the space provided below. Be specific as to what you are requesting, the reason(s) or justification(s) for your request, the amount of time needed to bring the property into compliance, as well as any modifications and/or alterations you are suggesting.)

Waiting on State to
Review and Rule on
Request For Variance

Signature:

A handwritten signature in black ink, appearing to read "M. J. Carr", written over the signature line.

Date:

6-16-10

Remaining Violations Report

5648

OWNERS

=====

L&M RENTALS
2201 S. OAKDALE DRIVE
BLOOMINGTON, IN 47403

AGENT

=====

MCBRIDE, MELISSA
2201 S. OAKDALE DRIVE
BLOOMINGTON IN 47403

Prop. Location: 161-167 E KENNEDY CT	Number of Units/Structures: 4 / 1
Date Inspected: 07/01/2009	Number of Bedrooms: 3
Inspectors: Mike Arnold	Max # of Occupants: 4
Primary Heat Source: Gas	Foundation Type: Crawl Space
Property Zoning: RM	Attic Access: Yes
Number of Stories: 2	Accessory Structure: none

REINSPECTION REQUIRED

This report is your final notice from the Housing and Neighborhood Development Office that this rental property continues to be in violation of the Housing-Property Maintenance Code of Bloomington.

If you have made all of the repairs on this report, contact our office immediately to schedule the required re-inspection.

Failure to make repairs or to schedule the required re-inspection will result in this matter being referred to the City Legal Department. Legal action may be initiated against you under Section 16.12.100 of the Bloomington Municipal Code.

It is your responsibility to contact the Housing and Neighborhood Development Office to schedule the required re-inspection. Our mailing address and telephone number are listed below.

Typical Egress Window (Applies for all sleeping rooms)**Required:**

Height: 24 inches
Width: 20 inches
Sill Height: 44 inches above finished floor
Openable Area: 5.70 sq. ft.

Existing:

Height: 24 inches
Width: 33 inches
Sill Height: 26 inches
Openable Area: 5.5 Sq. ft.

The egress windows do not meet the minimum code requirements for the time the structure was built (1997). For that reason, the City cannot issue a rental permit until either the windows are altered or replaced to meet the code requirement at the time of construction, or, you apply for an egress variance with the Indiana Fire and Building Safety Commission. PM-702.4

The State variance application forms are available at the *Department of Homeland Security* on the *Fire Prevention and Building Safety Commission's* web site at www.in.gov/dhs/2375.htm. Scroll down to *Downloadable Forms and Documents* and click on *Variance Application and Instructions*. If you need any further clarification, the Commission can be reached at 317.233.5341.

Interior:

Unit 161:

Upper Level:

Bedroom 2:

Replace the broken/missing outlet cover plate. PM-605.1 (East Wall).

Required Documentation:

Complete the enclosed registration form. A street address is required for both owner and agent. BMC16.12.060

A completed copy of the Tenants & Owners Rights and Responsibilities Summary must be provided to the office or reviewed with the inspector within 60 days of the date of the inspection or a \$25.00 fine will be levied. BMC16.12.050 (d). Note: Not received within 60 days therefore the fine will be levied

A completed copy of the Inventory & Damage List must be provided to the office or reviewed with the inspector within 60 days of the date of the inspection or a \$25.00 fine will be levied. BMC16.12.040. Note: Not received within 60 days therefore the fine will be levied

Thoroughly clean and service the furnace, inspect and test shut off valves for proper operation. Documentation from a professional HVAC contractor for this service is acceptable and encouraged. Servicing shall include a test for carbon monoxide. Acceptable levels of carbon monoxide are as follows:

Desired level:	0 parts per million (ppm)
Acceptable level in a living space:	9 ppm
Maximum concentration for flue products:	50 ppm

PM-603.1

When issued, a copy of the new Rental Occupancy Permit shall be posted as required by BMC 16.12.080 (b): All rental units shall be required to have a current occupancy permit displayed in an accessible location inside the unit. The permit shall contain the name of the owner or his agent and the expiration date of the permit. BMC 16.12.080 (b)



City of Bloomington
H.A.N.D.

**Board of Housing Quality Appeals
Staff Report: Petition for Variance**

Meeting Date:
September 8, 2010

Petition Type: A modification or exception to the Property Maintenance Code

Variance Request: To allow fuel-fired appliances to draw combustion air from a sleeping room.

Petition Number: 10-V-75

Address: 219 E. 8th Street

Petitioner: Lucy Khairy

Inspector: Robert Hoole

Staff Report: May 10, 2010 Cycle inspection report mailed
July 1, 2010 Met with owner and HVAC contractor
July 8, 2010 Appeal filed

During the cycle inspection it was noted that the furnace and water heater draw combustion air from the sleeping room in the basement apartment. The petitioner is seeking a variance to allow this situation to remain unchanged until modifications are made to eliminate the situation.

Staff recommendation: Grant the variance

Conditions: Single and multiple-station, hard wired **smoke and carbon monoxide** alarms shall be installed in the following locations and in accordance with following criteria: PM-102.3, PM-102.8, & PM-704.2

1. In each sleeping room
2. Outside of each sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwelling units with split levels without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

4. The alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Radio frequency interconnection is allowable.
5. Install smoke / carbon monoxide detector(s) in an approved location. If wall mounted, it shall be located between 6 and 12 inches from the ceiling. If ceiling mounted, it shall be located at least 4 inches from the wall.
6. The required smoke / carbon monoxide alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery.
7. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
8. Smoke / carbon monoxide detection shall be maintained in manner so that it functions as intended and is in compliance with the aforementioned installation requirements.
9. Should the structure ever be determined to be in a state of non-compliance with the abovementioned conditions the variance may be rescinded at the discretion of the code official.

Compliance Deadline: November 8, 2010

Attachments: Appeal form, cycle inspection report



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Petitioner's Name:

Lucy Khairy

15219 CITATION ROAD

Petitioner's Address & Phone Number:

CARMEL, IN, 46032

Owner's Name:

LUCY + IBRAHIM KHAIRY

15219 CITATION ROAD

Owner's Address & Phone Number:

CARMEL, IN 46032

Address of Property:

219 E. 8TH STREET, BLOOMINGTON, IN

MAIN HOUSE UNIT: LAUREN HOLLANDSWORTH, BRENNAN HOELZADI, LENA GROTE
ALEXANDRA MANN, KELSEY KIPER

Occupant(s) Name(s):

WALK DOWN UNIT: CHLOE MCKAY + KASEY MCKENNEY

The following conditions must be found in each case in order for the Board to consider the request:

1. That the value of the area about the property to which the exception is to apply will not be adversely affected.
2. That the exception is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.

Identify the variance type that you are requesting from the following list and attach the required information.



A. An extension of time to complete repairs. (Petition type: TV)

- ↳ Specify the items that need the extension of time to complete
- ↳ Explain why the extension is needed
- ↳ Specify the time requested



B. A modification or exception to the Housing Property Maintenance Code. (Petition type: V)

- ↳ Specify the code reference number you are appealing
- ↳ Detail why you are requesting the variance
- ↳ Specify the modifications and or alterations you are suggesting



C. Relief from an administration decision. (Petition type: AA)

- ↳ Specify the decision being appealed and the relief you are seeking



D. Rescind a variance. (Petition type: RV)

- ↳ Detail the existing variance
- ↳ Specify the reason the variance is no longer needed

I certify that all information submitted with this request is correct and I have enclosed the \$20.00 filing fee.

Signature:

Lucy A. Khairy

Name (print):

LUCY A. KHAIRY

10-V-75

Petition Number:

(Please use the reverse side for further explanation and/or request).



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Please write a brief narrative in the space provided below. Be specific as to what you are requesting, the reason(s) or justification(s) for your request, the amount of time needed to bring the property into compliance, as well as any modifications and/or alterations you are suggesting.)

INSPECTION STATED THAT FUEL FIRED APPLIANCES, IN THIS CASE A FURNACE + HOT WATER HEATER, SHALL NOT BE LOCATED IN OR OBTAIN COMBUSTION AIR FROM SLEEPING ROOMS + THAT CONTINUED UTILIZATION OF THE SLEEPING ROOM FOR SLEEPING PURPOSES IS CONTINGENT UPON REMOVAL OF THE FUEL FIRED FURNACE FROM THIS AREA OR OBTAIN A VARIANCE TO THE CITY OF BLOOMINGTON PROPERTY MAINTENANCE CODE BY THE BOARD OF HOUSING QUALITY APPEALS - PM-603.7

WE RESPECTFULLY REQUEST A VARIANCE FROM THIS REQUIREMENT FOR THE FOLLOWING REASONS:

- ① FURNACE HAS BEEN LOCATED IN A SEPARATE ROOM NEXT TO THE SLEEPING ROOM AT LEAST FOR AS LONG AS WE HAVE OWNED THE PROPERTY WHICH IS FROM SEPTEMBER 1994. NUMEROUS INSPECTIONS HAVE OCCURRED OVER THE YEARS + THIS ISSUE HAS NEVER BEEN BROUGHT UP. NOT WITHSTANDING VARIOUS SOLUTIONS DISCUSSED WITH THE INSPECTOR + COMMERCIAL SERVICE OF BLOOMINGTON WHO HAS SERVICED OUR MECHANICALS SINCE OUR OWNERSHIP, THE BEST SOLUTION IS A NEW HIGH EFFICIENCY FURNACE. RECOGNIZING THAT THE CODE MAY HAVE CHANGED TO ENHANCE SAFETY FOR TENANTS, TO WHICH WE WANT TO COMPLY WE ARE NOT SCHEDULED TO UPGRADE THE FURNACE IN THIS PROPERTY UNTIL LATE SUMMER OR FALL OF 2012 AT THE EARLIEST + LATE SUMMER OR FALL OF 2013 AT THE LATEST.
- ② INSPECTOR INDICATED THAT A NEW HIGH EFFICIENCY FURNACE WOULD LIKELY MEET CODE STANDARD + WE FEEL IT WOULD BE MORE ECONOMICAL TO PURCHASE SUCH A FURNACE IN 2-3 YEARS BECAUSE WE HAVE REPLACED THE ROOF A FEW MONTHS AGO + ARE ALREADY SCHEDULED TO REPLACE ALL GUTTER ON THE PROPERTY AS WELL AS MAKE OTHER SCHEDULED REPAIRS THIS SUMMER.

Respectfully submitted

Signature:

Lyle R. Haring

Date:

7/06/2010



City of Bloomington
Housing and Neighborhood Development

Cycle Report

2678

OWNERS

=====

KHAIRY, LUCY
15219 CITATION ROAD
CARMEL, IN 46032

Prop. Location: 219-219 ½ E. 8th
Date Inspected: 03/31/2010
Inspectors: Robert Hoole
Primary Heat Source: Gas
Property Zoning: RM
Number of Stories: 2

Number of Units/Structures: 3 / 2
Number of Bedrooms: 1, 2 & 4
Max # of Occupants: 2, 2 & 5
Foundation Type: Basement
Attic Access: No
Accessory Structure:

VARIANCE

=====

09/14/1995 Special exception to the handrail requirement for the front entry stairs with the condition that the owner and/or tenants maintain the entry in all weather conditions.

INTERIOR

219 Main house

Entry hallway

Provide operating power to smoke detector. PM-704.1

Replace the broken receptacle on the east wall. PM-605.1

West living room (14 x 26)

Replace the glazing compound and repair the deteriorated sashes, south window west wall. PM-303.13

1st floor southeast bedroom (14 x 14)

Existing Egress Window Measurements:

Height: 52 inches
Width: 20 inches
Sill Height: 26 inches
Openable Area: 7.22 sq. ft.

Note: These measurements are for reference only. There is no violation of the emergency egress requirements.

Kitchen (12 x 9)

No violations noted.

Enclosed back porch

No violations noted.

½ bath

Replace the missing toilet seat cover. PM-504.1

2nd floor hallway

No violations noted.

2nd floor bath

No violations noted.

2nd floor southeast bedroom (14 x 12)

Existing Egress Window Measurements:

Height: 23 inches
Width: 33 inches
Sill Height: 29 inches
Openable Area: 5.27 sq. ft.

Note: These measurements are for reference only. There is no violation of the emergency egress requirements.

The Property Maintenance Code requires that locks on egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort. The lock on the entry door of this room does not meet that requirement, however, the provisions of this code may not be mandatory for existing buildings or structures designated by the state or local

jurisdiction as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare. Therefore it is not necessary to remove or modify the lock. PM-702.3, BMC 16.04.020(f)

2nd floor southwest bedroom (14 x 26)

Existing Egress Window Measurements:

Height: 23 inches
Width: 33 inches
Sill Height: 29 inches
Openable Area: 5.27 sq. ft.

Note: These measurements are for reference only. There is no violation of the emergency egress requirements.

The Property Maintenance Code requires that locks on egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort. The lock on the entry door of this room does not meet that requirement, however, the provisions of this code may not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare. Therefore it is not necessary to remove or modify the lock. PM-702.3, BMC 16.04.020(f)

2nd floor north bedroom (10 ½ x 14)

Existing Egress Window Measurements:

Height: 23 inches
Width: 33 inches
Sill Height: 29 inches
Openable Area: 5.27 sq. ft.

Note: These measurements are for reference only. There is no violation of the emergency egress requirements.

The Property Maintenance Code requires that locks on egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort. The lock on the entry door of this room does not meet that requirement, however, the provisions of this code may not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare. Therefore it is not necessary to remove or modify the lock. PM-702.3, BMC 16.04.020(f)

Basement unit

Kitchen (7 x 12)

No violations noted.

Living room (16 x 22)

No violations noted.

Northwest storage room

No violations noted.

Bedroom (16 x 8' 10")

Thoroughly clean and service the furnace, inspect and test shut off valves for proper operation. Documentation from a professional HVAC contractor for this service is acceptable and encouraged. Servicing shall include a test for carbon monoxide. Acceptable levels of carbon monoxide are as follows:

Desired level:	0 parts per million (ppm)
Acceptable level in a living space:	9 ppm
Maximum concentration for flue products:	50 ppm

PM-603.1

Fuel-fired appliances shall not be located in or obtain combustion air from any of the rooms or spaces listed below. Continued Utilization of this room for sleeping purposes is contingent upon removal of the fuel fired furnace from this area or a variance to the City of Bloomington Property Maintenance Code by the Board of Housing Quality Appeals (BHQA). PM-603.7

- **Sleeping rooms**
- Bathrooms
- Toilet Rooms
- Closets used for storage of any combustibles
- Understairs

Eliminate storage of combustibles in the furnace area. PM-603.7

Provide operating power to smoke detector. PM-704.1

Bath

No violations noted.

219 ½ (House at rear of lot)

Living room (17 x 12)

No violations noted.

Kitchen (4 x 13)

The smoke detector appears to be more than 10 years old. Replace it with a new smoke detector. If wall mounted, it shall be located between 6 and 12 inches from the ceiling. If ceiling mounted, it shall be located at least 4 inches from the wall. PM-704.1

Bath

No violations noted.

West bedroom (7'4" x 8'3", 4'4" x 2'3")

Existing Egress Window Measurements:

Height: 36 inches
Width: 30 inches
Sill Height: 24 inches
Openable Area: 7.5 sq. ft.

Note: These measurements are for reference only. There is no violation of the emergency egress requirements.

East bedroom (7'4" x 8'3", 4'4" x 2'3")

Existing Egress Window Measurements:

Height: 36 inches
Width: 30 inches
Sill Height: 24 inches
Openable Area: 7.5 sq. ft.

Note: These measurements are for reference only. There is no violation of the emergency egress requirements.

EXTERIOR

No violations noted.

OTHER REQUIREMENTS

Required documentation:

A completed copy of the Tenants and Owners Rights and Responsibilities Summary must be provided to this office or reviewed with the inspector within 60 days of the date of the inspection or a \$25.00 fine will be levied. BMC 16.12.050 (d)

Required documentation:

The owner or his agent shall contact the tenant and arrange a joint inspection of the premises to occur within ten days of the tenant's occupancy of the rental unit. The owner or his agent and the tenant shall at that time jointly complete an inventory and damage list, and this shall be signed by all parties to the tenancy agreement. Duplicate copies of the inventory and damage list shall be retained by all parties and shall be deemed a part of the tenancy agreement. **A completed copy of the Inventory & Damage List must be provided to the office or reviewed with the inspector within 60 days of the date of the inspection or a \$25.00 fine will be levied. BMC16.12.040**

When issued, a copy of the new Rental Occupancy Permit shall be posted as required by BMC 16.12.080 (b): All rental units shall be required to have a current occupancy permit displayed in an accessible location inside the unit. The permit shall contain the name of the owner or his agent and the expiration date of the permit. BMC 16.12.080 (b)



City of Bloomington
H.A.N.D.

**Board of Housing Quality Appeals
Staff Report: Petition for Relief from an Administrative Decision**

Meeting Date: September 8, 2010

Petition Type: Relief from an administrative decision

Variance Request: Relief from the requirement to register as a rental

Petition Number: 10-AA-76

Address: 390 W. Jed Street

Petitioner: James R. & Zella M. Davis Living Trust

Prior to the expiration of the rental permit, the owner of the trust notified HAND that his daughter, Theresa L. Davis, is residing in the property and he would like it removed from the rental inspection program. Utilities are in the name of the Ms. Davis and it appears from water usage that one person is residing in the property.

Staff recommendation: Grant the relief from the rental registration process

Conditions: This agreement shall remain in force so long as Ms. Davis resides in the property. This property will be pull dated for 2013 to check residency.

Compliance Deadline: None

Attachments: Appeal form, letter from petitioner



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Petitioner's Name: James R. & Zella M. Davis

Petitioner's Address & Phone Number: 2201 S. Jean St. Bloomington, In 47403
ph 812 332-6789

Owner's Name: James R & Zella M. Davis Living Trust

Owner's Address & Phone Number: 2201 S. Jean St. Bloomington, In 47403 ph 812 332 6789

Address of Property: 390 W. Jed St. Bloomington In 47403

Occupant(s) Name(s): Theresa L. Davis (daughter)

The following conditions must be found in each case in order for the Board to consider the request:

1. That the value of the area about the property to which the exception is to apply will not be adversely affected.
2. That the exception is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.

Identify the variance type that you are requesting from the following list and attach the required information.

☐

A. An extension of time to complete repairs. (Petition type: TV)

- ↳ Specify the items that need the extension of time to complete
- ↳ Explain why the extension is needed
- ↳ Specify the time requested

☒

B. A modification or exception to the Housing Property Maintenance Code. (Petition type: V)

- ↳ Specify the code reference number you are appealing
- ↳ Detail why you are requesting the variance
- ↳ Specify the modifications and or alterations you are suggesting

☐

C. Relief from an administration decision. (Petition type: AA)

- ↳ Specify the decision being appealed and the relief you are seeking

☐

D. Rescind a variance. (Petition type: RV)

- ↳ Detail the existing variance
- ↳ Specify the reason the variance is no longer needed

I certify that all information submitted with this request is correct and I have enclosed the \$20.00 filing fee.

Signature: James R. Davis

Name (print): JAMES R. DAVIS

(Will be assigned by BHQA)

10-AA 76

Petition Number: _____

(Please use the reverse side for further explanation and/or request)



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

(Please write a brief narrative in the space provided below. Be specific as to what you are requesting, the reason(s) or justification(s) for your request, the amount of time needed to bring the property into compliance, as well as any modifications and/or alterations you are suggesting.)

We are providing the property at 390 W. Jed St for our daughter Theresa. She has multiple health problems and is unable to work so we ^{provide} ~~provide~~ everything for her. Therefore we will not rent the house again. The house is in a Trust so her name can not be on the deed.

We are both in our 80's and she helps us and checks on us several times a day. We will not be renting 390 W Jed again. Thank you.

Signature: James R & Zella M Davis

Date: 7/21/2010



City of Bloomington
H.A.N.D.

**Board of Housing Quality Appeals
Staff Report: Petition for Extension of Time**

Meeting Date: 08 September 2010

Petition Type: An extension of time to complete repairs

Petition Number: 10-TV-77

Address: 1003 S. Washington St.

Petitioner: Judith Sylvester

Inspector: Michael Arnold

Staff Report:

24 July 2009	Cycle Inspection
30 July 2009	Inspection Report Sent
28 September 2009	Reinspection Scheduled
23 October 2009	Reinspection Completed
23 October 2009	Issued Temporary Permit
28 May 2010	Sent Exterior Extension Deadline Reminder
22 July 2010	Received Request for Extension of Time

During the cycle inspection it was noted that some exterior painting was required. In order to accommodate her tenants and make additional repairs, the petitioner is asking for additional time.

Staff recommendation: Grant the extension of time.

Conditions: All repairs must be completed and re-inspected no later than the deadline stated below, or this case will be turned over to the City of Bloomington Legal Department for further action including the possibility of fines.

Compliance Deadline: 24 October 2010.

Attachments: Application for Appeal, Exterior Extension Reminder

15



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Petitioner's Name: JUDITH SYLVESTER

Petitioner's Address & Phone Number: 1001 S. WASHINGTON, BLOOMINGTON 47401

Owner's Name: JUDITH SYLVESTER

Owner's Address & Phone Number: 1001 S. WASHINGTON, BLOOMINGTON 47401

Address of Property: 1003 S. WASHINGTON, BLOOMINGTON, IN. 47401

Occupant(s) Name(s): 2010 - GANO/PADDISON, property unoccupied, ~~unoccupied~~

The following conditions must be found in each case in order for the Board to consider the request:

- That the value of the area about the property to which the exception is to apply will not be adversely affected.
- That the exception is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.

Identify the variance type that you are requesting from the following list and attach the required information.

- ☒ A. An extension of time to complete repairs. (Petition type: TV)
 - ↳ Specify the items that need the extension of time to complete
 - ↳ Explain why the extension is needed
 - ↳ Specify the time requested
- ☐ B. A modification or exception to the Housing Property Maintenance Code. (Petition type: V)
 - ↳ Specify the code reference number you are appealing
 - ↳ Detail why you are requesting the variance
 - ↳ Specify the modifications and or alterations you are suggesting
- ☐ C. Relief from an administration decision. (Petition type: AA)
 - ↳ Specify the decision being appealed and the relief you are seeking
- ☐ D. Rescind a variance. (Petition type: RV)
 - ↳ Detail the existing variance
 - ↳ Specify the reason the variance is no longer needed

Certify that all information submitted with this request is correct and I have enclosed the \$20.00 filing fee.

Signature: Judith Sylvester

Name (print): JUDITH SYLVESTER

10-TV-77
Petition Number: _____

(Please use the reverse side for further explanation and/or request).

1001 S. Washington
Bloomington, IN 47401

July 21st, 2010

Dear Mike Arnold:

The City has requested that I paint the exterior wood on my rental property, at 1003 S. Washington with a due date of July 24th 2010.

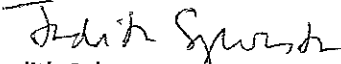
I have painted the back porch. But in order to paint the exterior wood on the windows, it was necessary to remove the storms. Earlier this summer I asked my tenants if they would please grant me access to the house so I could begin work on the windows. This is an old house, and it has settled in such a way that the storms were almost impossible to remove, and my efforts were creating a considerable disruption in their bedrooms. They told me that they planned on leaving a week prior to the expiration of their Lease, and asked me if I would consider working on the windows after they left. I consented, as I felt that their request was reasonable, and the time provided appeared adequate to repaint the window sashes.

They moved out on Friday July 16th, and I recommenced work on the windows. Once I was able to get the first storm off, it became clear that the condition of the windows was far more complicated than was initially apparent. Not only is the paint deteriorated straight through to the bare wood, the caulking is also completely shot. Repairing the caulking is not being required by the City at this time. However, it would be better to repair the caulking simultaneously with repainting the window sashes, and I would like to do so.

Due to having granted my tenants permission to leave the premises before I got started, it is now very difficult to get both of these tasks completed by July 24th. For this reason I would like to ask you to please grant an extension of this deadline. Please let me know if this will be possible at your convenience. I can be reached at the address above, or at 812.333.9223, or at jlsylvester@indiana.edu

Thank you for your time and attention.

Sincerely yours,


Judith Sylvester



**City of Bloomington
Housing and Neighborhood Development**

Exterior Extension Reminder

4228

OWNERS

=====

SYLVESTER, JUDITH
1001 S. WASHINGTON
BLOOMINGTON, IN 47401

Prop. Location: 1003 S WASHINGTON ST
Date Inspected: 07/24/2009
Inspectors: Mike Arnold
Primary Heat Source: Gas
Property Zoning: RC
Number of Stories: 2

Number of Units/Structures: 1 / 1
Number of Bedrooms: 3
Max # of Occupants: 3
Foundation Type: Basement
Attic Access: Yes
Accessory Structure: garage

VARIANCE

=====

09/14/1995 Special exception to passing through a bedroom to gain access to the bathroom.

This report is your reminder from the Housing and Neighborhood Development Office that this rental property is operating under a Temporary Permit that expires on 24 July 2010.

If you have made all of the repairs on this report, contact our office immediately to schedule the required drive-by re-inspection.

Failure to make repairs or to schedule the required re-inspection will result in this matter being referred to the City Legal Department. Legal action may be initiated against you under Section 16.12.100 of the Bloomington Municipal Code.

It is your responsibility to contact the Housing and Neighborhood Development Office to schedule the required re-inspection. Our mailing address and telephone number are listed below.

Exterior:

Scrape and paint interior surfaces where paint is peeling or wood is exposed. PM-304.3 (Exterior sides of sashes, jambs and window wells as needed). (This item has a deadline of 07/24/2010).



City of Bloomington
H.A.N.D.

Board of Housing Quality Appeals
Staff Report: Petition for Relief from an Administrative Decision

Meeting Date: September 8, 2010
Petition Type: Relief from an administrative decision
Variance Request: Relief from the requirement to register as a rental
Petition Number: 10-AA-78
Address: 203 E. Vermilya Avenue
Petitioner: Donald R. Chitwood

Prior to the expiration of the rental permit, Mr. Chitwood (owner) contacted HAND to inform us that his step-daughter, Sarah Landfair, is residing in the property and he would like it removed from the rental inspection program. Utilities are in the name of the owner and it appears from water usage that one person is residing in the property.

Staff recommendation: Grant the relief from the rental registration process

Conditions: This agreement shall remain in force so long as Sarah Landfair resides in the property. This property will be pull dated for 2013 to check residency.

Compliance Deadline: None

Attachments: Appeal form, letter from petitioner



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Petitioner's Name: DONALD R. CHITWOOD

Petitioner's Address & Phone Number: 5320 E. STATE Rd. 45 BLOOMINGTON, IN
(812) 334-0481 47408

Owner's Name: SAME

Owner's Address & Phone Number: _____

Address of Property: 203 E. VERMILYA AVE.

Occupant(s) Name(s): SARAH LANDFAIR MY WIFE'S DAUGHTER
AND MY STEP-DAUGHTER

- The following conditions must be found in each case in order for the Board to consider the request:
1. That the value of the area about the property to which the exception is to apply will not be adversely affected.
 2. That the exception is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.

Identify the variance type that you are requesting from the following list and attach the required information.

- ☐ A. An extension of time to complete repairs. (Petition type: TV)
↳ Specify the items that need the extension of time to complete
↳ Explain why the extension is needed
↳ Specify the time requested
- ☒ B. A modification or exception to the Housing Property Maintenance Code. (Petition type: V)
↳ Specify the code reference number you are appealing
↳ Detail why you are requesting the variance
↳ Specify the modifications and or alterations you are suggesting
- ☐ C. Relief from an administration decision. (Petition type: AA)
↳ Specify the decision being appealed and the relief you are seeking
- ☐ D. Rescind a variance. (Petition type: RV)
↳ Detail the existing variance
↳ Specify the reason the variance is no longer needed

I certify that all information submitted with this request is correct and I have enclosed the \$20.00 filing fee.

Signature: Donald R. Chitwood

Name (print): DONALD R. CHITWOOD

Petition Number: 10-AA-78

(Please use the reverse side for further explanation and/or request).



Application for Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420

Please write a brief narrative in the space provided below. Be specific as to what you are requesting, the reason(s) or justification(s) for your request, the amount of time needed to bring the property into compliance, as well as any modifications and/or alterations you are suggesting.)

THIS PROPERTY IS NO LONGER A

RENTAL PROPERTY - HAS NOT BEEN RENTED FOR 2 YRS.

MY STEP-DAUGHTER IS AN IU STUDENT

AND IS NOT PAYING RENT.

MY WIFE AND I AGREED TO

LET HER LIVE THERE FREE LESS EXPENSE THAN PAYING TO LIVE IN DORM OR APT.

ALL THE UTILITIES ARE STILL IN MY

NAME.

MY STEP-DAUGHTER WILL BE

LIVING THERE INDEFINITELY (AT LEAST 2-4 YEARS)

IT IS CHEAPER TO LET HER STAY THERE FREE

THAN PAY FOR HER HOUSING SOMEWHERE ELSE.

Signature:

Donald R. Chittwood

Date:

7/23/10



City of Bloomington
H.A.N.D.

Board of Housing Quality Appeals
Staff Report: Petition for Relief from an Administrative Decision

Meeting Date: September 8, 2010

Petition Type: Relief from an administrative decision

Variance Request: Relief from the requirement to register as a rental

Petition Number: 10-AA-79

Address: 930 S. Manor Road

Petitioner: SPITI, LLC

HAND sent a NTR/NTS on 7/14/10 to the owner of record. Upon receipt, the owner notified HAND that his mother, Asma El Sayed, is residing in the property and he would like it removed from the rental inspection program. Utilities are in the name of the SPITI, LLC and it appears from water usage that one person is residing in the property.

Staff recommendation: Grant the relief from the rental registration process

Conditions: This agreement shall remain in force so long as Asma El Sayed resides in the property. This property will be pull dated for 2013 to check residency.

Compliance Deadline: None

Attachments: Appeal form, letter from petitioner



**Application For Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420
hand@bloomington.in.gov**

Property Address: 930 S. MANOR Rd.

Petitioner's Name: DANIEL ROUSSOS / SPITI LLC

Address: 1107 E. SHERIDAN DRIVE

City: BLOOMINGTON State: IN Zip Code: 47401

Phone Number: 812-961-2089 E-mail Address: data@mail@gmail.com

Owner's Name: DANIEL ROUSSOS / SPITI LLC

Address: SAME AS ABOVE

City: _____ State: _____ Zip Code: _____

Phone Number: _____ E-mail Address: _____

Occupants: MOTHER: ASMA ELSAYED

The following conditions must be found in each case in order for the Board to consider the request:

1. That the exception is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.
2. That the value of the area about the property to which the exception is to apply will not be adversely affected.

Identify the variance type that you are requesting from the following drop down menu:

Variance Type: _____

Reminder:

A \$20.00 filing fee must be submitted with the Appeal Application or the application will not be considered to be complete! A completed application has to be submitted prior to the meeting application deadline in order to be placed on that months agenda!

(Will be assigned by BHQA)

10-AA-79

Petition Number: _____

In the space provided below please write a brief narrative regarding your request. Be specific as to what you are requesting, the reason(s) or justification(s) for your request, the amount of time needed to bring the property into compliance, as well as any modifications and/or alterations you are suggesting. The following information must be included dependent upon the type of variance you are requesting:

- A. An extension of time to complete repairs. (Petition type: TV)
 - 1. Specify the items that need the extension of time to complete.
 - 2. Explain why the extension is needed.
 - 3. Specify the time requested.
- ☒ B. A modification or exception to the Housing Property Maintenance Code. (Petition type: V)
 - 1. Specify the code reference number you are appealing.
 - 2. Detail why you are requesting the variance.
 - 3. Specify the modifications and or alterations you are suggesting.
- C. Relief from an administration decision. (Petition type: AA)
 - 1. Specify the decision being appealed and the relief you are seeking.
- D. Rescind a variance. (Petition type: RV)
 - 1. Detail the existing variance.
 - 2. Specify the reason the variance is no longer needed.

This house @ 930 S. MAJOR Rd. is no longer a rental, I purchased this house and I have my mother "ASMA EL SAYED" living @ this address.

Signature (Required):



Name (Print):

DANIEL ROUSSOS

Date:

07.26.10
~~7/15/10~~

Important information regarding this application format:

- 1. This form is designed to be filled out electronically, printed, then returned/submitted manually (e.g. postal mail).
- 2. This document may be saved on your computer for future use, however, any data that you have entered will not be saved.

Print Form



City of Bloomington
H.A.N.D.

**Board of Housing Quality Appeals
Staff Report: Petition for Extension of Time**

Meeting Date: 08 September 2010

Petition Type: Relief from an administrative decision

Petition Number: 10-TV- 080

Address: 1731 N. Lincoln Street

Petitioner: Olympus Properties, LLC by counsel Michael W. McBride

Inspector: Robert Hoole

Staff Report: 04 June 2010 Cycle Inspection conducted
 08 Aug 2010 Reinspection conducted
 10 Aug 2010 Received appeal

During the cycle inspection it was noted that the bedroom windows did not meet the minimum egress requirements for this structure at the time of construction (1990). The petitioner is requesting a relief from administrative decision stating that this violation is not valid due to the Court Order for Cause No. 53CO1-0805-PL-01019.

The cycle report mistakenly cited 702.4 for the violation. However, the Property Maintenance Code 160.04.040(b) states "Rule-Making Authority. The code official shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety."

The Rental Inspection program is a licensing code and the City of Bloomington feels that properties need to have at least met the code at the time of construction

to be considered for a Rental Occupancy Permit. This policy does not have the effect of waiving structural or fire performance requirements and does not conflict with any state provision; it has been in place and it has been consistently applied since 2005.

There are two outstanding violations for this property. Window requirements are as follows:

Required:	Existing:
Height: 24 inches	Height: 20 ½ inches
Width: 20 inches	Width: 34 inches
Sill Height: 44 inches above finished floor Sill	Height 37 inches
Openable Area: 5.70 sq. ft. for upper level	Openable Area: <u>4.84 Sq. ft. for upper level</u>

All other outstanding items were corrected at the time of the reinspection.

Staff recommendation:	Deny the request for administrative relief. Grant the petition an extension of time to see a variance from the Department of Homeland Security's Fire Prevention and Building Safety Commission.
Conditions:	All repairs must be completed and re-inspected no later than the deadline stated below, or this case will be turned over to the City of Bloomington Legal Department for further action including the possibility of fines.
Compliance Deadline:	08 December 2010
Attachments:	Application, Cycle report



**Application For Appeal
To The
Board of Housing Quality Appeals
P.O. Box 100
Bloomington, IN 47402
812-349-3420
hand@bloomington.in.gov**

Property Address: 1731 N. Lincoln Street

Petitioner's Name: Olympus Properties, LLC, by counsel Michael W. McBride

Address: 403 E. 6th Street

City: Bloomington

State: Indiana

Zip Code: 47408

Phone Number: (812) 332-2113

E-mail Address: mwm@ferglaw.com

Owner's Name: David Johnson

Address: 22 Westview

City: Linton

State: Indiana

Zip Code: 47441

Phone Number: 812-847-8134

E-mail Address:

Occupants: Elizabeth McGrath, Elizabeth Conkle, Kristin Cartwright as of August 13, 2010

The following conditions must be found in each case in order for the Board to consider the request:

1. That the exception is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.
2. That the value of the area about the property to which the exception is to apply will not be adversely affected.

Identify the variance type that you are requesting from the following drop down menu:

Variance Type: Relief from an administrative decision. (Petition Type: AA)

Reminder:

A \$20.00 filing fee must be submitted with the Appeal Application or the application will not be considered to be complete! A completed application has to be submitted prior to the meeting application deadline in order to be placed on that months agenda!

(Will be assigned by BHQA)

Petition Number: 10AA80

In the space provided below please write a brief narrative regarding your request. Be specific as to what you are requesting, the reason(s) or justification(s) for your request, the amount of time needed to bring the property into compliance, as well as any modifications and/or alterations you are suggesting. The following information must be included dependent upon the type of variance you are requesting:

- A. An extension of time to complete repairs. (Petition type: TV)
 - 1. Specify the items that need the extension of time to complete.
 - 2. Explain why the extension is needed.
 - 3. Specify the time requested.
- B. A modification or exception to the Housing Property Maintenance Code. (Petition type: V)
 - 1. Specify the code reference number you are appealing.
 - 2. Detail why you are requesting the variance.
 - 3. Specify the modifications and or alterations you are suggesting.
- C. Relief from an administration decision. (Petition type: AA)
 - 1. Specify the decision being appealed and the relief you are seeking.
- D. Rescind a variance. (Petition type: RV)
 - 1. Detail the existing variance.
 - 2. Specify the reason the variance is no longer needed.

The City of Bloomington Housing and Neighborhood Development Department ("HAND") has stated that it will not issue a rental permit for the property located at 1731 N. Lincoln Street, Bloomington, Indiana until either the rear bedroom and front bedroom windows are altered or replaced to meet the code requirement at the time of construction or an egress variance is obtained from the Indiana Fire Prevention and Building Safety Commission pursuant to PM 702.4. Recent litigation in the Monroe Circuit Court has ordered PM 702.4 unenforceable, and thus any violation of PM 702.4 cannot deny a property owner a rental permit (see attached Court Order in Cause Number 53C01-0805-PL-01019). Refusal to grant a rental permit due to the a violation of PM 702.4 is a direct violation of the Court's Order. This property has no other violations and previously had a 5-year rental permit. The following relief is requested: HAND issue a 5-year rental permit for the property located at 1731 N. Lincoln Street, Bloomington, Indiana.

Signature (Required):



Name (Print): Michael W. McBride

Date: 8/10/10

Important information regarding this application format:

- 1. This form is designed to be filled out electronically, printed, then returned/submitted manually (e.g. postal mail).
- 2. This document may be saved on your computer for future use, however, any data that you have entered will not be saved.

Print Form

STATE OF INDIANA)

IN MONROE CIRCUIT COURT I

) SS:

COUNTY OF MONROE)

CASE NO 53C01-0805-*PL*-01019

STARDUST DEVELOPMENT, LLC,)

Plaintiff,)

vs)

CITY OF BLOOMINGTON,)

Defendant.)

**ORDER GRANTING PARTIAL SUMMARY JUDGMENT TO PLAINTIFF AND
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

On January 15, 2010, a hearing was held on Plaintiff's Motion for Summary Judgment and Defendant's Cross-Motion for Summary Judgment. Plaintiff Stardust Development, LLC, appeared by counsel, Michael W. McBride. Defendant City of Bloomington appeared by counsel, Patricia M. Mulvihill. The Monroe County Apartment Association, an Amicus Curiae, appeared by counsel, Angela F. Parker, but did not participate in the argument.

Each party filed a motion to strike portions of the designated summary judgment materials designated by the other party. The court makes the following orders on those motions.

The Defendant's Motion to Strike, filed November 2, 2009, is granted as to the legal conclusions of Mara J. Snyder in her July 9, 2009 Affidavit, as stipulated to by Plaintiff in Plaintiff's November 16, 2009 Response to Defendant's Motion to Strike.

The Defendant's Motion to Strike is denied as to the following portion of paragraph 11: "The Commission has not approved the Bloomington PMC", and as to paragraphs 16 and 17 of the Affidavit.

Stardust's Motion to Strike, filed November 16, 2009, is granted.

Plaintiff maintains that summary judgment should be granted as a matter of law because Defendant's Property Maintenance Code, which applies to all residential rental units in the City of Bloomington, contains building laws and fire safety laws. I.C. § 22-13-2-5 requires the Indiana Fire Prevention and Building Safety Commission to approve such local laws before they are effective. Without approval by the Commission local building laws or fire safety laws are not effective.

Defendant contends that the Property Maintenance Code does not regulate building or fire safety, but instead regulates the business of rental housing. The City states that the purpose of the Property Maintenance Code is to set forth how a business owner must apply for a license to lease rental property, how a business owner can renew a license to lease rental property, the types of documents a business owner must maintain in order to lease rental property, and how a business owner must maintain residential rental units in order to lease them. The City maintains that it has the authority to regulate the rental housing business by I.C. § 36-8-2-10, and Home Rule, I.C. § 36-1-3-1 *et seq.*

The Commission's building and fire safety laws "take precedence over ... any ordinance or other regulation adopted by a political subdivision that covers the same subject matter as the [C]ommission's fire safety rules or building rules." (I.C. § 22-12-2-3(a)(2)) Building laws are laws which require the alteration of Class 1 and Class 2 structures, and fire safety laws are building laws that safeguard life or property from the hazards of fire or explosion. (I.C. § § 22-12-1-3, 22-12-1-13)

A city may not enact ordinances that govern an area of the law that has been exclusively occupied by the State. If the authority is exclusively that of the State's, the municipality cannot also regulate. *Medias v. City of Indianapolis*, 23 N.E.2d 590 (Ind. 1939); *Yater v. Hancock County Planning Comm.*, 614 N.E.2d 568 (Ind. Ct. App. 1993).

I.C. § 22-13-2-5 gives the Commission review authority of all ordinances that qualify as fire safety laws or building laws, and in doing so "limit[s] other subdivisions' authority to pass such laws." *Turner v. Bd. of Aviation Comm'rs*, 743 N.E.2d 1153, 1163 (Ind. Ct. App. 2001) (citing to I.C. § 22-13-2-5 and § 22-13-2-3).

The Property Maintenance Code states that its intent is to "ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises." (PM 101:3) At least some sections of the Property Maintenance Code have the same purposes as building and fire safety laws, as defined by I.C. § § 22-12-1-3 and 22-12-1-13, respectively. If those sections regulate building or fire safety, those provisions of the Property Maintenance Code fall within the exclusive authority of the state.

All of the provisions of the Property Maintenance Code may constitute the regulation of the rental business, but some are plainly building or fire safety laws. For instance, the egress requirement in PM 702.4 that is at issue in this case clearly constitutes a building law and fire safety law under I.C. § § 22-13-1-2 and 22-13-1-3. It is not a coincidence that PM 702.4 is contained in Section 700, entitled "Fire Safety Requirements". Since it is a fire safety law, before PM 702.4 can be effective it must be approved by the Commission. Since it has not been approved by the Commission, PM 702.4 is unenforceable, and Plaintiff is entitled to summary judgment on this issue. The court finds and orders that PM 702.4 is unenforceable.


There are other provisions in the Property Maintenance Code that may constitute building laws and fire safety laws, and any such provisions, none of which have been approved by the Commission, should similarly be held unenforceable. However, other Property Maintenance Code sections are not building laws or fire safety laws. When provisions of an ordinance are distinctly severable from the remainder of the ordinance, as here, the invalid portion may be removed and the remainder permitted to stand. *Hobble By & Through Hobble v. Basham*, 575 N.E.2d 693, 699 (Ind. Ct. App. 1991). This basic rule of construction requires that this court sever any unenforceable provisions of the Property Maintenance Code and leave the remainder of the ordinance intact.

The parties should be given the opportunity to be heard and to present evidence on the remaining provisions of the Property Maintenance Code in order to determine which, if any, additional sections of the Property Maintenance Code require Commission approval.

Plaintiff also seeks summary judgment on the issue of Defendant's bad faith in litigating this case. Plaintiff claims it is entitled to attorney fees because Defendant did not really believe the arguments it advanced in support of its positions regarding the Property Maintenance Code. Plaintiff argues that Defendant's positions and statements in other litigation, and out of court statements by Defendant's employees, show that Defendant knew it did not have a defensible position in this case. However, considering the absence of appellate authority on Commission approval, and issues about the severability of the Property Maintenance Code, the court does not find Defendant's position to be groundless or to have been litigated in bad faith. Attorney fees should not be awarded in contravention of the American rule that each party must bear its own costs. Plaintiff's motion for summary judgment on its request for attorney fees is denied.

Defendant's motion for summary judgment is denied.

SO ORDERED THIS 16TH DAY OF FEBRUARY, 2010


E. Michael Hoff, Judge
Monroe Circuit Court I

Copies: Michael W. McBride / David L. Ferguson
Patricia M. Mulvihill / Inge M. Van Der Cruysse
James J. Hutton, Deputy Attorney General
Angela F. Parker
File

The emergency egress window does not meet the minimum requirements for a one and two family dwelling/multi-unit structure built in 19XX:

Openable area required:	sq. ft.	Existing area:	sq. ft.
Clear width required:	"	Existing width:	"
Clear height required:	"	Existing height:	"
Maximum sill height:	" above finished floor	Existing sill:	"

The emergency egress window does not meet the minimum code requirements for the time the structure was built. For that reason, the City will not issue a rental permit until either the **window is altered or replaced to meet the code requirement at the time of construction, or you apply for an egress variance** with the Indiana Fire and Building Safety Commission. BMC-16.02.040 (b).

The State variance application forms are available at the *Department of Homeland Security* on the *Fire Prevention and Building Safety Commission's* web site at www.in.gov/dhs/2375.htm. Scroll down to *Downloadable Forms and Documents* and click on *Variance Application and Instructions*. If you need any further clarification, the Commission can be reached at 317.233.5341.